

## § 1.906

to time prescribe for purposes of compromise, suspension, or termination of collection activity.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501)

[69 FR 62192, Oct. 25, 2004]

### § 1.906 Required administrative proceedings.

(a) In applying §§1.900 through 1.953, VA is not required to omit, foreclose, or duplicate administrative proceedings required by contract or other laws or regulations.

(b) Nothing contained in §§1.900 through 1.953 is intended to foreclose the right of any debtor to an administrative proceeding, including appeals, waivers, and hearings provided by statute, contract, or VA regulation (see 38 U.S.C. 3720(a)(4) and 5302 and 42 U.S.C. 2651-2653).

(Authority: 38 U.S.C. 501, 3720(a)(4), 5302; 42 U.S.C. 2651 through 2653)

[69 FR 62192, Oct. 25, 2004]

### § 1.907 Definitions.

(a) The definitions and construction found in the Federal Claims Collection Standards in 31 CFR 900.2(a) through (d), and the definitions in the provisions on administrative wage garnishment in 31 CFR 285.11(c) shall apply to §§1.900 through 1.953, except as otherwise stated.

(b) As used in §§1.900 through 1.953, *referral for litigation* means referral to the Department of Justice for appropriate legal actions, except in those specified instances where a case is referred to a VA Regional Counsel for legal action.

(c) As used in §§1.900 through 1.953, *VA benefit program* means medical care, home loan, and benefits payment programs administered by VA under Title 38 of the United States Code, except as otherwise stated.

(d) As used in §§1.900 through 1.953, *Treasury* means the United States Department of the Treasury.

(Authority: 31 U.S.C. 3701, 3711; 38 U.S.C. 501, 5316)

[69 FR 62192, Oct. 25, 2004]

## 38 CFR Ch. I (7-1-12 Edition)

### STANDARDS FOR COLLECTION OF CLAIMS

AUTHORITY: Sections 1.900 through 1.953 are issued under the authority of 31 U.S.C. 3711 through 3720E; 38 U.S.C. 501, and as noted in specific sections.

SOURCE: 32 FR 2613, Feb. 8, 1967, unless otherwise noted.

### § 1.910 Aggressive collection action.

(a) VA will take aggressive collection action on a timely basis, with effective follow-up, to collect all claims for money or property arising from its activities.

(b) In accordance with 31 U.S.C. 3711(g) and the procedures set forth at 31 CFR 285.12, VA shall transfer to Treasury any non-tax debt or claim that has been delinquent for a period of 180 days or more so that Treasury may take appropriate action to collect the debt or terminate collection action. This requirement does not apply to any debt that:

(1) Is in litigation or foreclosure;

(2) Will be disposed of under an approved asset sale program;

(3) Has been referred to a private collection contractor for a period of time acceptable to the Secretary of the Treasury;

(4) Is at a debt collection center for a period of time acceptable to the Secretary of the Treasury;

(5) Will be collected under internal offset procedures within 3 years after the debt first became delinquent; or

(6) Is exempt from this requirement based on a determination by the Secretary of the Treasury that exemption for a certain class of debt is in the best interest of the United States. VA may request that the Secretary of the Treasury exempt specific classes of debts.

(c) In accordance with 31 U.S.C. 3716(c)(6) and the procedures set forth in 31 CFR part 285, VA shall notify Treasury of all past due, legally enforceable non-tax debt that is over 180 days delinquent for purposes of administrative offset, including tax refund offset and federal salary offset. (Procedures for referral to Treasury for tax refund offset are found at 31 CFR 285.2 and procedures for referral to Treasury

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for federal salary offset are found at 38 CFR 1.995 and 31 CFR 285.7.)

(Authority: 31 U.S.C. 1311, 1316; 38 U.S.C. 501, 5314; 31 CFR part 285)

[69 FR 62192, Oct. 25, 2004]

### **§ 1.911 Collection of debts owed by reason of participation in a benefits program.**

(a) *Scope.* This section applies to the collection of debts resulting from an individual's participation in a VA benefit or home loan program. It does not apply to VA's other debt collection activities. Standards for the demand for payment of all other debts owed to VA are set forth in § 1.911a. School liability debts are governed by § 21.4009 of this title.

(b) *Written demands.* When VA has determined that a debt exists by reason of an administrative decision or by operation of law, VA shall promptly demand, in writing, payment of the debt. VA shall notify the debtor of his or her rights and remedies and the consequences of failure to cooperate with collection efforts. Generally, one demand letter is sufficient, but subsequent demand letters may be issued as needed.

(c) *Rights and remedies.* Subject to limitations referred to in this paragraph, the debtor has the right to informally dispute the existence or amount of the debt, to request waiver of collection of the debt, to a hearing on the waiver request, and to appeal the Department of Veterans Affairs decision underlying the debt. These rights can be exercised separately or simultaneously. Except as provided in § 1.912a (collection by offset), the exercise of any of these rights will not stay any collection proceeding.

(1) *Informal dispute.* This means that the debtor writes to the Department of Veterans Affairs and questions whether he or she owes the debt or whether the amount is accurate. The Department of Veterans Affairs will, as expeditiously as possible, review the accuracy of the debt determination. If the resolution is adverse to the debtor, he or she may also request waiver of collection as indicated in paragraphs (c)(2) and (3) of this section.

(2) *Request for waiver; hearing on request.* The debtor has the right to re-

quest waiver of collection, in accordance with § 1.963 or § 1.964, and the right to a hearing on the request. Requests for waivers must be filed in writing. A waiver request must be filed within the time limit set forth in 38 U.S.C. 5302. If waiver is granted, in whole or in part, the debtor has a right to refund of amounts already collected up to the amount waived.

(3) *Appeal.* In accordance with parts 19 and 20 of this title, the debtor may appeal the decision underlying the debt.

(d) *Notification.* The Department of Veterans Affairs shall notify the debtor in writing of the following:

(1) The exact amount of the debt;

(2) The specific reasons for the debt, in simple and concise language;

(3) The rights and remedies described in paragraph (c) of this section, including a brief explanation of the concept of, and requirements for, waiver;

(4) That collection may be made by offset from current or future VA benefit payments (see § 1.912a). In addition, the debtor shall be advised of any policies with respect to the use of credit bureaus, debt collection centers, and collection agencies; any other remedies to enforce payment of the debt, including administrative wage garnishment, Federal salary offset, tax refund offset, and litigation; and the requirement that any debt delinquent for more than 180 days be transferred to Treasury for administrative offset or collection.

(5) That interest and administrative costs may be assessed in accordance with § 1.915, as appropriate;

(6) That the debtor shall have the opportunity to inspect and copy records; and

(7) That the debtor shall have the opportunity to enter into a repayment agreement.

(e) *Sufficiency of notification.* Notification is sufficient when sent by ordinary mail directed to the debtor's last known address and not returned as undeliverable by postal authorities.

(f) *Further explanation.* Further explanation may be found for—

(1) Appellate rights, in parts 19 and 20 of this title;

(2) Notification of any decision affecting the payment of benefits or granting relief, in § 3.103(e);